The examiner is literally correct in that Acklin et al. does not state that acids **weaker than formic acid** cannot be used. What Acklin et al **does** state is that the acid used to liberate cyanic acid has to be **at least as strong as formic acid**. Acetic acid is not. Furthermore, as we have seen above, claim 14 does not deal with the first reaction in which formic acid is used, therefore, the reference to claim 14 in that context is the equivalent of mixing apples and oranges, and reference to Examples 9 and 10 does not change a jot or tittle of that fact.

The mere fact that the Board has not stated that the claims can be amended in any fashion to make them allowable, does not change the also clear fact that **this amendment does** make the claim allowable. The Board is not obliged to search for possible ways in which rejected claims could be made allowable, because in that case they would have made or suggested such an amendment for allowance instead of refusing acceptance of the unamended claims.

The issues decided on the previous appeal did not include the present, amended claim language which by its terms excludes the presence of any other acid than acetic acid; a feature which was not considered by the Board at all. Hence there cannot be any issue of *res judicata* with respect to the earlier consideration by the Board of the unamended claims.

Accordingly, **at the very least** the withdrawal of the finality of the outstanding action and a reconsideration of the outstanding rejections and the allowance of the claims are respectfully urged.

Respectfully submitted,

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Cynthia A. Pilato

Translation of pertinent parts of EP 277,095 Acklin et al.
from column 2, line 39

For liberating cyanic acid from one of its salts, which also represents a particularly preferred embodiment of the invention, several protonic acids are suitable which have a sufficiently strong acidity to liberate cyanic acid from its salts. Suitable are, for example, mineral acids, such as hydrochloric acid or sulfuric acid, organic sulfonic acids such as C_1-C_7- alkane, or in a given case halogen or C_1-C_4 alkylsubstituted benzolsulfonic acids e.g. methane, ethane-benzol-, p-toluene- or p-bromobenzolsulfonic acid, or organic carbonic acids the acid strengths of which in the solvent that is used is at least practically corresponds to that of formic acid, such as 2-mono-, 2,2-di-, or 2,2,2-trihalogen-C_2-C_7-alkane acids, such as trichloroacetic acid.

The reaction of the N, N-(dibenzohexatrienylene)amine components with cyanic acid runs spontaneously and slightly exothermically. The reaction parameters are not critical. The reaction can be conducted, for example, in the temperature range of about 0 degrees C, to about 120 degrees C and conducted homogeneously or preferably heterogeneously. At the same time conversion and conversion rate can be accelerated by slight heating and/or the presence of an acidic agent. The conversion is therefore, preferably conducted in the temperature range between ambient e.i. about 20 degrees C to about 100 degrees C, as well as in the presence of an acidic agent. ...

As the acidic agent primarily those protonic acids are considered that are used to liberate cyanic acid from one of its salts, and also aliphatic carbonic acids, such as C_1-C_7-alkane acids, such as acetic acid, especially when these are also used as solvents. When one employs the variant in which cyanic acid is liberated from one of its salts in situ, one uses preferably generally a small i.e. about 0.5% to 10%, such as 1% to 5%, but when using e.g. sulfuric acid then due to the reasons already mentioned a 5% to 40%, e.g. about 32% excess is used of the acid employed to liberate cyanic acid.